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1636  
ATTORNEY DOCKET NO. 22000.0021U2  
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of )  
Lin and Hawiger )  
Serial No. 09/516,310 ) Group Art Unit: 1636  
Filed: March 1, 2000 ) Examiner: Loeb, B.  
For: "A NOVEL METHOD FOR IMPORTING )  
BIOLOGICALLY ACTIVE MOLECULES )  
INTO CELLS" )

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents  
Washington, D.C. 20231

NEEDLE & ROSENBERG, P.C.  
Suite 1200, The Candler Building  
127 Peachtree Street, N.E.  
Atlanta, Georgia 30303-1811

January 14, 2002

Sir:

In response to the Restriction Requirement issued December 14, 2001 for the above-referenced patent application, applicants provisionally elect Group II (claims 6-10, drawn to a method of importing a biologically active molecule into a cell in a subject), with traverse.

Applicants also request that the restriction requirement be reconsidered, because it has not been shown that a serious burden would be required to examine all the claims. M.P.E.P. § 803 provides:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions. (*Emphasis added.*)

Thus, for a restriction requirement to be proper, the following two criteria must be satisfied: (1) the existence of independent and distinct inventions (35 U.S.C. § 121); and (2) that search and examination of the entire application cannot be made without serious burden. *See* M.P.E.P. § 803.

However, it has not been shown that the second requirement has been met, i.e., that it would be a serious burden to search and examine the groups together. In particular, restriction groups I-VIII all fall under the **same class and subclass** (i.e., class 514, subclass 1), restriction groups IX and X are also in class **514** (**although** in subclass 2), and restriction group XI is in a different class and subclass. **Therefore**, restriction groups I-XI in total constitute only two classes and three subclasses. Because little or no additional burden would be required to search and examine the groups together, applicants respectfully submit that the groups should be searched and examined together. For these **reasons**, reconsideration and withdrawal of the restriction requirement is requested.

For the reasons stated above, applicants respectfully assert that restriction of the claims as set forth in the present Office Communication would be contrary to promoting efficiency, economy and expediency in the U.S. Patent and Trademark Office and further point out that requirements for restriction under 35 U.S.C. § 121 are discretionary (M.P.E.P. § 803.01). Therefore, applicants respectfully request that all of the claims of this application be examined together. Consequently, reconsideration and modification or withdrawal of the restriction requirement is requested.

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It is believed that this paper is being timely filed and that no fee is required for the filing thereof; however, the Commissioner is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. 14-0629.

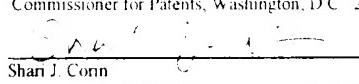
Respectfully submitted,

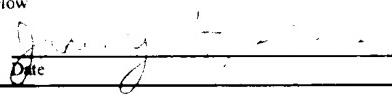
  
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CERTIFICATE OF MAILING

I hereby certify that this RESPONSE is being deposited with the United States Postal Service as first class mail in an envelope addressed to  
Commissioner for Patents, Washington, D.C. 20231, on the date shown below

  
Shari J. Conn

  
Date